

being transported was specifically authorized by statute or regulation of that State, and was specifically and continuously authorized on or before October 1, 1993;

(2) The packaging complies with all requirements of the State; and

(3) Each shipment is offered in conformance with all other applicable requirements of this subchapter.

Issued in Washington, DC, on July 1, 1993 under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93-16107 Filed 7-8-93; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Not Substantial Petition Finding on the North Cascades Lynx

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: The Endangered Species Act of 1973, as amended (Act), requires the Service to evaluate petitions and determine whether or not substantial information has been presented indicating that the requested action may be warranted. On April 28, 1993, the U.S. Fish and Wildlife Service (Service) agreed to reevaluate its negative 90-day finding on the petition to list the North Cascades population of the lynx, in light of the anticipated receipt of new information. The Service has completed its reevaluation and finds that the petition does not present substantial information indicating that the requested action may be warranted. The North Cascades lynx is not a listable entity, because it is not a distinct population segment. This finding supersedes the earlier 90-day finding dated February 4, 1992.

DATES: The finding announced in this petition was approved on July 1, 1993. Comments from all interested parties will be accepted until further notice.

ADDRESSES: Comments and materials should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 3704 Griffin Lane SE., suite 102, Olympia, Washington 98501-2192. Comments and materials received will be available for public inspection, by appointment,

during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Frederick, at the above address (206/753-9440).

SUPPLEMENTARY INFORMATION:

Background

On August 22, 1991, the U.S. Fish and Wildlife Service (Service) received a petition from the National Audubon Society, The Humane Society of the United States, Defenders of Wildlife, Greater Ecosystem Alliance, Friends of the Loomis Forest, Methow Valley Forest Watch, Save Chelan Alliance, Lower Columbia Basin Audubon Society, Tonasket Forest Watch, Pilchuck Audubon Society, North Cascades Audubon Society, and Sierra Club Cascade Chapter (collectively "petitioners") to list the North American lynx (*Felis lynx canadensis*) of the North Cascades ecosystem of Washington as an endangered species under the emergency provisions of the Endangered Species Act of 1973, as amended (Act), and to designate critical habitat. On October 6, 1992, the Service announced its finding that the petition had not presented substantial information indicating that the requested action was warranted in the *Federal Register* (57 FR 46007). On April 28, 1992, a settlement agreement was reached whereby the Service agreed to reevaluate its 90-day finding on the petition, in light of new information that was to be submitted by the petitioners.

The new information consisted of the draft "Status of the North American Lynx in Washington," prepared by the Washington Department of Wildlife (WDW 1993), 1992 landsat photograph (Radarsat International 1992), and written comments provided by the Greater Ecosystem Alliance in regard to the draft status review.

The Service has reconsidered the plaintiffs' petition and finds that the petition and other recent information provided by the petitioner does not present substantial information that the requested action may be warranted. In cases where a petitioner only requests listing of a species throughout a portion of its range, the Service must first determine whether or not the population petitioned represents a "distinct population segment" listable under the Act.

"Distinct population segments" listed as endangered or threatened species typically consist of: (1) Populations that are reproductively isolated from other members of the species, or (2) the entire coterminous United States population of a species. Reproductive isolation is

usually the result of a complete (or nearly so) geographic barrier; the dispersal of just a few individuals per generation would suffice to maintain a mixed gene pool.

The North American lynx inhabits coniferous forests and wet bogs from Newfoundland and Labrador on the east to Alaska and British Columbia on the west, and from the arctic treeline to as far south as Colorado in the northern United States (WDW 1993). Therefore, the North Cascades population of the lynx does not constitute the entire coterminous United States population of the species.

In addition, the Service fails to find substantial information indicating that lynx in the North Cascades of Washington is isolated from other parts of its range in British Columbia. Lynx typically undergo long-distance dispersal during and after a decline in the hare populations (Adams 1963, Mech 1973, 1980, Ward 1985, Ward and Krebs 1985, as cited in WDW 1993). During a low in the hare cycle, lynx will move greater distances in search of food (Brand et al. 1976, Alaska Dept. Fish and Game 1977, as cited in WDW 1993). Lynx in Washington have been documented to move several hundred miles into British Columbia (WDW 1993).

Examination of the landsat photograph covering a large portion of the North Cascades ecosystem shows no evidence of a geographical barrier along the international border between the United States and Canada. Clearcut areas may prevent lynx from dispersing into other areas for a short period of time, but they do not constitute long-term barriers. Within 10 to 20 years following harvest, most clearcut areas likely provide regrowth allowing cover for dispersal (Engbring, USFWS, pers. comm., 1993). Much of the area depicted in the landsat photograph is within the Pasayten Wilderness and is not subject to logging. Within approximately 20 miles of the border, the landsat photograph depicts only a minor amount of logging. The area is likely suitable for lynx. Approximately 25 to 40 miles north of the border, a series of clearcuts suggests that there may be a partial barrier to dispersal at that latitude. This barrier, however, is not complete, and no evidence has been presented that would suggest lynx do not occasionally traverse and disperse across this area.

In summary, the Service finds that substantial information is not available to demonstrate that the lynx population in the North Cascades ecosystem of Washington constitutes a distinct population segment. Therefore,

substantial information does not exist indicating that the North Cascades population of the lynx should be listed under the Act, because it is not a listable entity. However, the Service believes sufficient evidence exists indicating that an in-depth rangewide status review for the lynx should be conducted and intends to commence this status review.

References Cited

Radarsat International. 1992. Projection UTM Zone: 11/N27. Radarsat International Inc. Satellite Data Distribution Centre, 3851 Shell Road, suite 200, Richmond, British Columbia, Canada V6X 2W2.
 Washington Department of Wildlife (WDW). 1993. Status of the North American Lynx (*Lynx canadensis*) in Washington. Draft, March 1993. Washington Department of Wildlife, Olympia, Washington. 112 pp.
Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Public Law 99-625, 100 Stat. 3500; unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: July 1, 1993.

Bruce Blanchard,
Acting Director, U.S. Fish and Wildlife Service.

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50 CFR Part 24

RIN 1018-AB28

Endangered and Threatened Wildlife and Plants; Designated Ports for Listed Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to amend the regulations establishing designated ports for the importation, exportation, and reexportation of plants by adding Orlando, Florida, to the list of designated ports. The U.S. Department of Agriculture is proposing to open a plant inspection station in Orlando, and it appears that the station has adequate facilities and personnel to qualify as a designated port for the importation, exportation, and reexportation of plants under the terms of the Endangered Species Act of 1973, as amended (the Act), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The addition of Orlando to the list of designated ports would facilitate

plant trade and the enforcement of the Act and CITES.

DATES: Comments must be submitted on or before September 7, 1993. Requests for a public hearing must be received by August 23, 1993.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Chief, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Comments and materials may be hand-delivered to the same address between the hours of 8 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Marshall P. Jones, Chief, Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 430, Arlington, Virginia 22203, telephone (703) 358-2095.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (the Act), requires, among other things, that plants be imported, exported, or reexported only at designated ports or, under certain limited circumstances, at nondesignated ports. Section 9(f) of the Act (16 U.S.C. 1538(f)) provides for the designation of ports. Under section 9(f)(1), the Secretary of the Interior (Secretary) has the authority to establish designated ports based on a finding that such an action would facilitate enforcement of the Act and reduce the costs of that enforcement. The United States Department of Agriculture (USDA) and the Secretary are responsible for enforcing provisions of the Act and the convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) relating to the importation, exportation, and reexportation of listed plants.

The regulations contained in 50 CFR part 24, "Importation and Exportation of Plants," are for the purpose of establishing ports for the importation, exportation, and reexportation of plants. Section 24.12(e) of the regulations contains a list of 87 USDA ports that are, for the purposes of the Act and CITES, designated ports for the importation, exportation, and reexportation of plants that are not required to be accompanied by documentation under 50 CFR part 17 or 23. (The USDA regulations in 7 CFR 319.37 contain additional prohibitions and restrictions governing the importation of plants through those 87 ports.) Plants that are listed as endangered or threatened in 50 CFR 17.12 or in the appendices to CITES in 50 CFR 23.23 are required to be accompanied by documentation and

may be imported, exported, or reexported only at one of the USDA ports listed in § 24.12(a) through (d) of the regulations.

On August 20, 1992, the USDA published a proposed rule in the *Federal Register* (57 FR 37735-37736, Doc. No. 92-096-1) to add Orlando, Florida, to the list of USDA ports of entry in 7 CFR 319.37-14. Because it possesses the special inspection and treatment facilities needed to process plants that are imported under a written quarantine permit, Orlando would be further designated a USDA plant inspection station. The USDA has now asked the Fish and Wildlife Service (the Service) to add Orlando to the lists of USDA ports in 50 CFR 24.12, paragraphs (a) and (e).

For the purposes of its enforcement of the Act and CITES, the Service requires that a port have personnel with expertise in identifying endangered or threatened plants to ensure that such plants are properly identified by their accompanying documentation. A port must also possess adequate facilities for holding live plants and plant material, since plants are subject to seizure if imported, exported, or reexported in violation of the Act or CITES. The Service further requires that, whenever possible, ports be located to coincide with established patterns of plant trade in order to help reduce shipping costs.

After consultations with the USDA, the Service has determined that the Orlando port of entry, as described by the USDA in its August 20, 1992, proposal, appears to possess adequate facilities and personnel to carry out enforcement activities related to the Act and CITES. Additionally, the location of the Orlando facility appears to coincide with established patterns of plant trade. Therefore, the Service proposes to add Orlando, Florida, to the lists of USDA ports in 50 CFR 24.12, paragraph (a) and (e).

Requests for Public Hearing

Section 9(f)(1) of the Act provides that any person may request an opportunity to comment at a public hearing before the Secretary confers designated port status on any port. Accordingly, the Service will accept public hearing requests within 45 days of the publication of this proposed rule. These requests should be sent to the Office of Management Authority address listed in the ADDRESSES section of this document.

Executive Order 12291 and Regulatory Flexibility Act

The Service is issuing this proposed rule in conformance with Executive Order 12291, and has determined that it

is not a "major rule." The Service has determined that this proposed rule, if adopted, would have an effect on the economy of less than \$100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The addition of Orlando, Florida, as a designated port would facilitate the importation, exportation, and reexportation of plants listed as threatened or endangered as well as other terrestrial plants. The Service believes the addition of this port would have a positive, albeit limited, economic impact.

The volume of traffic currently handled by the designated ports in Florida indicates that an additional port would be utilized for the importation, exportation, or reexportation of plants. The Service has no way of knowing how heavily the new port would be used, but the USDA estimates that 20 or more commercial exporters/importers, many of them small entities, would use this new facility on a regular basis. The USDA also projects that commercial importers based in the northern Florida area would realize at least a small

savings in transportation costs as a result of the opening of the Orlando facility. The primary impact, however, would be the increased convenience of having an additional port in Florida through which plants could be imported, exported, or reexported.

Under these circumstances, the Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. The Office of the Solicitor has determined that the requirements of Executive Order 12778 have been satisfied.

National Environmental Policy Act

The Service has determined that this proposed rule to add a designated port under authority of the Endangered Species Act of 1973 for the importation and exportation of plants is not a major Federal action which would significantly affect the quality of the human environment within the meaning

of section 102(2)(C) of the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 50 CFR Part 24

Import, Export, Endangered and threatened plants, Treaties (Agriculture).

Accordingly, we propose to amend 50 CFR part 24 as follows:

PART 24—IMPORTATION AND EXPORTATION OF PLANTS

1. The authority citation for part 24 would continue to read as follows:

Authority: Secs. 9(f)(1), 11(f), Public Law 93-205, 87 Stat. 893, 897 (16 U.S.C. 1538(f)(1), 1540(f)).

§24.12 [Amended]

2. Section 24.12(a) is proposed to be amended by adding "'Orlando, Florida'" immediately under "Miami, Florida".

3. Section 24.12(e) is proposed to be amended by adding "'Orlando, Florida'" immediately under "Miami, Florida".

Dated: May 28, 1993.

Richard N. Smith,
Acting Director, Fish and Wildlife Service.
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